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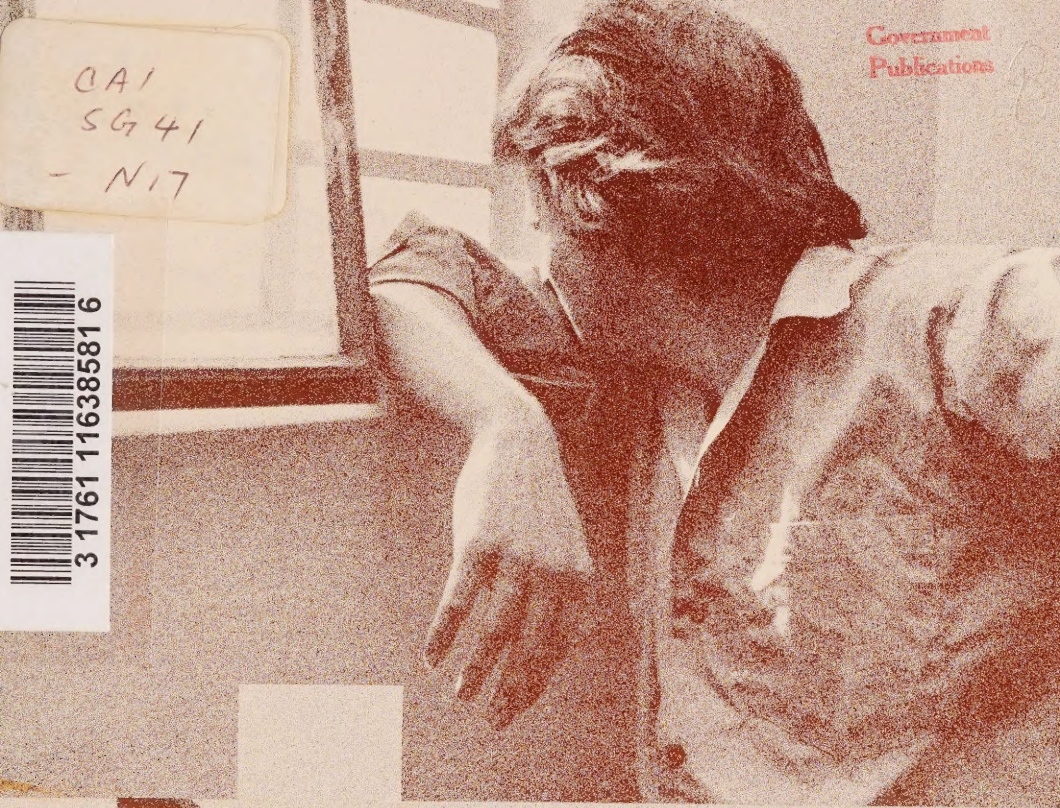

The National Parole Board

Government of Canada
Gouvernement du Canada

National Parole Board
Commission nationale des libérations conditionnelles


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In the last twenty years, much literature and discussion in the field of corrections has been focused on the re-integration of the offender into the community. Although the traditional objective of punishment as a deterrent is still a dominant consideration, attention is being directed at alternatives to incarceration. Parole is one of these alternatives allowing carefully selected offenders to serve — under specific conditions — a part of their sentence in the community.

ORIGIN OF PAROLE

Although the term "parole" was not used until 1846, the concept of conditional release reaches much further back, traceable to the original systems of conditional pardon, clemency indenture, transportation of criminals and Ticket-Of-Leave.

The Order of the English Privy Council of 1617 made it government policy to transport convicts overseas. Soon, these convicts were being sent to the new world as indentured servants. After serving their time or purchasing their freedom, many of these convicts became the settlers whose branches spread into our present civilization.

With the advent of the Revolutionary War, England sent convicts to New South Wales in Australia where the Governor was given the power of conditional pardon which developed into the Ticket-Of-Leave system.

This Ticket-Of-Leave system is the root of the "good-time" or remission principle. It was the last step of a graded system through which convicts had the opportunity to progress. Progress was measured by "marks" earned through good conduct and labour. The steps were:

(1) strict imprisonment,
(2) work on chain gangs,
(3) periods of partial freedom,
(4) Ticket-Of-Leave, during which the convict was required to report to the local constabulary and conform to a series of rules.

Those persons familiar with the present parole system will note certain parallels between the Ticket-Of-Leave system and the contemporary parole system.

PAROLE IN CANADA

Parole in Canada is identified with "An Act to Provide for the Conditional Liberation of Convicts" passed by Parliament in 1899. Prior to 1899, prisoners were released from custody by Order of the Governor General upon the advice of a Minister of the Crown as an expression of the Royal Prerogative of Mercy. These releases were unconditional and approved mainly on the basis of humanitarian considerations.

Under the terms of the new Act, the Governor General could grant a conditional release. This conditional liberation was seen as a method of bridging the gap between the control and restraints of institutional life and the freedom and responsibility of community life.

Canada was sparsely settled and the task of developing a system of parole supervision difficult. Much reliance was placed on the monthly reporting of the parolee to the police, and the guidance and supervision volunteered by the Salvation Army.

The administration of the Act was the responsibility of officers of the Department of Justice who constituted a section of the Department known as the Remission Service.

The depression years were characterized by an increase in prison population and a concurrent increase in the number of Tickets-Of-Leave to join the Armed Forces or to accept employment in war industry through what was known as the "Special War Purposes Ticket-Of-Leave".

During the post-war years, considerable expansion of social services took place. In the field of corrections, the Salvation Army expanded and developed their services and the John Howard and Elizabeth Fry Societies and other agencies became involved in parole supervision. The increasing availability of such services underlined the importance of making the supervision of parolees an integral part of the Ticket-Of-Leave system itself, and thus a part of the conditional release of all persons on parole.

In 1953 the Minister of Justice appointed a Committee of Inquiry into the Remission Service. The Committee's report, which became known as the Fauteux Report, recommended the enactment of legislation to create a National Parole Board.

On February 15, 1959, the Parole Act was proclaimed, transferring the authority to grant conditional release to an independent Board with Members appointed by the Governor in Council.

The 1950's in Canada were characterized by the emergence of a number of new penological systems focussing on the provision of services outside of or as alternatives to imprisonment. Two of these systems, probation and parole, grew into substantial services during the early 1960's. "Corrections" became professionalized, drawing its staff from graduates in criminology and social work, as well as from other related disciplines.

The early enthusiastic and unrealistic expectations of these and other correctional programmes have not been realized; in effect they have not proven to be *the* answer to the crime problem. However they have contributed to the creation of a penal system which is less severe in its impact on the minor or accidental offender, and which is more humane and equitable in its administration.

THE BOARD

Membership

The National Parole Board comprises 26 full-time Members. Members are appointed for a period of up to 10 years, by the Governor in Council (the Cabinet) upon the recommendation of the Solicitor General. Temporary Members may also be appointed to assist the Board in its duties. Members may be reappointed. One of the Members is designated as Chairman, another as Vice-Chairman.

There are no specific qualifications to become a Member of the Board. The present Members have experience encompassing criminology, psychology, social work, law, corrections, law enforcement, and journalism. Major ethnic groups are also represented.

Besides these Members, representatives from police forces, local governments, professional associations, trade unions, or community associations in each of the five regions of Canada serve on regional panels. These Members are known as Regional Community Board Members and are designated by the Solicitor General to act as regular Board Members when release is being considered for inmates convicted of murder, or inmates serving sentences of preventive detention as dangerous offenders, habitual criminals or dangerous sexual offenders.

Organization

The Board is an agency within the Department of the Solicitor General, which also includes Correctional Services Canada and the Royal Canadian Mounted Police. It is completely independent of outside control and in the exercise of its decision-making role, except, of course, the ultimate control of Parliament, through the exercise of its legislative function.

The Board's operations are divided into five geographic regions: Atlantic (Newfoundland, Nova Scotia, New Brunswick, and Prince Edward Island); Quebec; Ontario; Prairies (Manitoba, Saskatchewan, Alberta, and Northwest Territories); and British Columbia (B.C. and Yukon). Each regional office conducts hearings with all federal inmates in its region who are eligible for consideration for parole.

The National Parole Service, a branch of Correctional Services Canada, is responsible for preparing reports on the cases that come before the Board and providing supervision of those granted parole or released on mandatory supervision, under terms defined by the Board.

Jurisdiction of the National Parole Board

The Board has exclusive jurisdiction and absolute discretion to grant, deny or revoke day parole and full parole for inmates in both federal and provincial prisons, except for cases under the jurisdiction of provincial parole boards, mentioned below. The Board is ultimately responsible for the granting of unescorted temporary absences; however, in some instances the Board delegates its authority to grant unescorted temporary absences to directors of institutions. The Board also has the authority to revoke mandatory supervision.

The Board has jurisdiction over persons who are serving a sentence of imprisonment as a result of any federal offence but it has no jurisdiction over juveniles within the meaning of the Juvenile Delinquents Act, or over anyone in custody who is serving a sentence intermittently.

Jurisdiction of Provincial Parole Boards

Until recently, only Ontario and British Columbia had their own parole boards. These boards had a limited jurisdiction since they were concerned only with the paroling of inmates serving the indefinite portion of a definite/indefinite sentence. (This particular type of sentence existed only in Ontario and British Columbia).

Since the 1st of September 1978, it has been possible by law for any interested province to establish its own parole board, with jurisdiction over all inmates serving a definite sentence in provincial institutions. To date, Ontario and Quebec have taken advantage of this new section of the Act.

It occasionally happens, under a transfer agreement between the federal government and the provinces, that dangerous offenders or inmates serving life as a minimum sentence, or life as a commuted death sentence, are found in provincial institutions. The National Parole Board maintains its jurisdiction over these cases.

The provincial boards are bound by the provisions of the Parole Act, and Parole Regulations made under it, that specifically apply to provincial boards. The provinces may develop their own rules and regulations in order to tailor the administration of the Act to their particular needs, so long as they do not conflict with the Act or Regulations.

Authority

Parole may be granted, according to the Parole Act, when:

—the requirement of the law or Regulations as to the time that must be served before becoming eligible for parole has been met;

—the reform and rehabilitation of the inmate will be aided by the grant of parole;

—the release of the inmate on parole would not constitute an undue risk to society;

—in the case of full parole, the inmate has derived the maximum benefit from imprisonment.

Under the Act, the Board has authority to impose the conditions under which the parolee or inmate under mandatory supervision will live in the community.

The Board is also required, when requested by the Solicitor General to do so, to make enquiries in connection with the exercise of the Royal Prerogative of Mercy.

In addition, the Board has the responsibility, under the Criminal Records Act, to make recommendations to the Solicitor General concerning applications for pardon.

TYPES OF RELEASE

Temporary Absence

A temporary absence (TA) from a penitentiary is usually the first release a penitentiary inmate will be granted. TA's are given for any of three purposes; medical, humanitarian, or rehabilitative. They may be with or without escort. Escorted temporary absence means that the inmate, either by himself or as a member of a group, is accompanied by an escorting officer. Unescorted TA's are the responsibility of the National Parole Board, which in instances of inmates serving shorter sentences, delegates its authority to the director of an institution. It maintains its exclusive jurisdiction in the case of inmates sentenced to longer terms of imprisonment. Inmates convicted of murder in most instances cannot be granted an escorted TA of any kind without Board approval, depending on the date of their conviction.

Temporary absences granted by the Board are usually limited to a maximum of 72 hours every three months, a period of time that can be broken down in a number of ways to best benefit the objectives of the release.

Day Parole

The Board also grants "day parole". This type of release is often granted to a potential candidate for full parole and serves as a testing ground for that inmate. For the duration of his day parole, the inmate must return periodically (often every night) to the institution or to a community correction centre. Day parole may last a maximum of 12 months but is usually granted for periods of less than four months, for purposes such as:

—to allow an inmate to complete his education or training, when the facilities are not available in the institution;
—to give him the opportunity to take part in forestry projects, a community service, harvesting;
—for re-acquaintance with his family.

Day parole helps prevent the shock and frustration of an abrupt release from the institution without adequate plans, job, accommodation, or re-established family ties. It also gives the Board an opportunity to assess how well the inmate might do if released full time, under conditions of more intensive supervision than would apply with full parole, and under conditions which facilitate a quick return to custody if conduct deteriorates. When successfully completed, day parole may lead to full parole.

Full Parole

Full parole is the full-time conditional release of an inmate. When paroled, an individual is allowed to serve his sentence in the community until its expiry date, unless the Board has sufficient grounds to believe that he is returning to criminal activity or if the parolee actually commits a new crime. In such circumstances, parole is suspended and usually revoked.

Mandatory Supervision

Penitentiary inmates who are not released on parole are entitled by law to serve in the community, under supervision, the time accumulated by statutory or earned remission. (Inmates whose penitentiary time began before July, 1970, however are not supervised). Remission, commonly known as "time off for good behaviour", can be as much as one third of an inmate's sentence. If the inmate does not like the idea of being supervised in the community under conditions similar to those of parole, he has the option of remaining in the institution until the expiry date of his sentence, thus in effect cancelling his remission.

Contrary to parole, which is a discretionary act by the Board, release under mandatory supervision is a legal right over which the Board has no control. However, the Board has the authority to revoke mandatory supervision and send individuals back to prison to serve the remaining portion of their sentence if the conditions of the release are violated or if the inmate commits a new crime.

Length of Sentence	Time to be Serve	
	Temporary Absence	D
0 to 2 years	N/A	t m
2 to 5 years	If entered pen. before Mar. 1/78, 6 mos. after entrance; on or after Mar. 1/78, 6 mos. after sentencing or ½ time before PED, whichever is longer	For 2 to 12 6 mos. or ½ ever is long For sentenc as a maxim 2 years bef
5 to 10 years		
10 years to life as a maximum punishment		
5 years or more when violent conduct (described in Parole Act and Regulations) is involved		
Life as a maximum punishment	If entered pen. before Mar. 1/78, 6 mos. after entrance; on or after Mar. 1/78, 3 years before PED	
Preventive detention (as a habitual or dangerous sexual offender)	1 year	
Detention for an indeterminate period (since Oct. 15/77 as a dangerous offender)	3 years	
Life for murder before Jan. 4/68	3 years after entered pen.	3 yea
Life for murder, Jan. 4/68 to Jan. 1/74		
Life: death commuted before Jan. 1/74		
Life for murder, Jan. 1/74 to July 26/76	3 years before PED	
Life: death commuted, Jan 1/74 to July 26/76		
Life: death not commuted by July 26/76		
Life for 1st degree murder on or after July 26/76		
Life for 2nd degree murder on or after July 26/76		
After revocation	Eligible but, as policy, not for 6 months or ½ time to new parole review date, which is within 2 years	As policy, before PE
After revocation and new sentence		

NOTES

—PED refers to full parole eligibility date
—PED is calculated from sentencing date except for lifers where it is calculated from day of arrest, covering time in custody
—Temporary absences (TA's) are for penitentiaries only
—When 3 or 5 votes are required for a first release on TA, subsequent release requires only 2 votes
—A simple majority of votes is required for all cases except life and indeterminate sentences, for which a 2/3 majority is required.

efore Eligibility		Number of Members Required to vote
Parole	Full Parole	
efore PED	1 3 of sentence	2
ar sentences, ne to PED which-	1/3 of sentence or 7 years whichever is less	3
		5
of 12 years or more punishment PED	½ of sentence or 7 years whichever is less	3
ears	7 years	5
year	1 year	
years	3 years (covering time in custody)	
	7 years	7
	10 years	
before PED	10-20 years; Judicial Review possible at 15 years	
	25 years; Judicial Review possible at 15 years	
	10-25 years; Judicial Review possible at 15 years	
months or ½ time	As policy, eligible after a minimum of 6 mos. and a maximum of 2 years except cases of preventive detention who are eligible after 6 mos. and not later than a year	As originally required
Depends on new sentence		

ELIGIBILITY FOR PAROLE

To serve a part of his sentence in the community other than on mandatory supervision, an inmate must be eligible under the Parole Act and Regulations or the Criminal Code, and must be considered ready for release by the Board. Even when the inmate has become eligible for a particular type of release, the Board has the discretion to grant or not to grant that release; it is never an automatic process.

Eligibility for temporary absence or day parole comes before eligibility for full parole and is based on the length and date of the sentence. By and large, it ranges from six months after sentencing or one-half the time before the eligibility date for full parole for those sentenced to definite terms of imprisonment, to three years before the eligibility date in the case of murderers sentenced for life.*

Provincial Inmates

An inmate serving a sentence of less than two years in a provincial institution under federal law, may be paroled by the National Parole Board when that inmate is not under the jurisdiction of a provincial parole board. Eligibility for full parole normally comes after the inmate has served one-third of his sentence, but the National Parole Board considers the case only if it receives an application. In British Columbia and Ontario, an offender may be serving a definite or fixed term plus an indefinite term under federal law. The National Parole Board may grant parole during the definite portion, which is served first, and the provincial board may grant it during the indefinite portion. For an inmate serving a definite plus indefinite sentence, parole by the National Parole Board is given with the agreement of the provincial board so that the inmate may remain on parole continuously to the end of his sentence.

Federal Inmates

A federal inmate serving a definite sentence other than life, usually becomes eligible for consideration for full parole after serving one-third of the sentence or after seven years, whichever comes first.

* For more details, please consult the eligibility table, page 10

However, an inmate sentenced a second time within 10 years for an offence that is considered under the Parole Regulations to have involved violent conduct, has to serve one-half of his sentence or seven years, whichever is less, before becoming eligible for parole.

Anyone serving a sentence of preventive detention because he was declared to be an habitual criminal or a dangerous sexual offender must have his case reviewed by the Board once a year, as stated in the Criminal Code. This legal requirement for yearly review is a means of ensuring that those who are serving indeterminate sentences are not forgotten in the prison cells. By no means should the automatic reviews be understood as likely to lead, at the beginning or perhaps for many years, to a grant of parole.

Since October 15, 1977, there has been a new class of offender: the dangerous offender. A person can receive an indeterminate sentence when he has been found by the courts to be a dangerous offender. This new category includes the old category of "dangerous sexual offender".

A dangerous offender becomes eligible for parole three years after being taken into custody and must have his case reviewed at that time and every two years thereafter. In practice, few inmates with such a sentence are paroled before at least eight to 10 years have been served.

An offender sentenced to life imprisonment for a crime other than murder becomes eligible for consideration after seven years.

An inmate sentenced before January 4, 1968, to life imprisonment for murder becomes eligible after serving seven years. An inmate sentenced to life for murder between January 4, 1968, and July 26, 1976, becomes eligible at some time between 10 and 25 years.

Since July 26, 1976, there have been two categories of murder: first and second degree. First degree murder covers all planned and deliberate murders and certain other murders (e.g. contracted murders, murder of a police officer, a prison employee or any other person authorized to work in a prison, when he is on duty). The mandatory period to be served before parole eligibility is 25 years.

Persons who have committed second degree murder, (i.e. any murder that is not first degree murder) can become eligible for parole after serving between 10 and 25 years of their sentence, as determined by the sentencing judge.

Anyone convicted of murder who must serve more than 15 years before parole eligibility may apply after 15 years for a judicial review by a Superior Court judge and a jury to either reduce the remaining period before eligibility or to be declared eligible for parole immediately.

THE DECISION TO RELEASE

Studying the Case

Before making a decision to grant any type of release, the Board studies the case in depth. For each inmate, there is a file containing information on him gathered from many sources. It consists of a number of reports and documents, the major ones being:

- —the inmate's criminal record (known as his finger-print statement or F.P.S.);
- —a police report describing in detail the offence, the effect of the crime on the victim, and the role that the offender (and any accomplices) played;
- —institutional reports written by social workers, correctional officers, shop instructors and other staff;
- —reports from the social agencies that have dealt with the inmate;
- —the parole officer's report assessing the reaction of the community to which the inmate wishes to return;
- —the parole officer's report based on a detailed interview with the inmate and his assessment;
- —an up-to-date police report with an opinion about the possible return of the inmate to the community;
- —psychological profiles and assessments and any psychiatric reports;
- —sometimes a statement from the judge who sentenced the inmate;
- —letters from family members, friends, employers and others.

The Hearing

Once the investigation is completed, the Board begins its review, which for penitentiary cases generally includes a hearing. There are usually two or three Board Members at the hearing, depending on the length of the inmate's sentence. A hearing is held not only with inmates being considered for full parole but also with inmates who apply for their first unescorted temporary absence or for day parole. The hearing, which usually lasts at least 30 minutes, allows the Board Members to

ask questions of the inmate himself and seek clarification about matters contained in the case file and previously studied by the Board Members involved. It also gives a dimension to the Board's evaluation that could never be achieved by file study, however good the reports might be.

The major elements that Board Members take into consideration when making a decision are:

- —the criminal record, kinds of offences and their pattern, and length of crime-free periods between convictions;
- —the nature and seriousness of the current offence;
- —the inmate's understanding of his criminal behaviour and the concrete action he has taken to change;
- —the inmate's accomplishments while incarcerated; training, participation in activities, grades obtained;
- —the inmate's behaviour when granted a temporary absence release or day parole if it applies;
- —previous parole violations;
- —the inmate's relationship with his family and friends;
- —his release plan: for instance where he would live, who could help him outside, what plans he has for employment or training, and how definite they are, and how he feels all of these will keep him out of further trouble with the law;
- —the possible effects on the community if he were to commit another crime.

The experience of the Board during the last several years has been that parole has been granted in 35-40% of cases of inmates in federal institutions and in 45-50% of cases of inmates in provincial institutions.

Voting

All Board Members have an equal vote, and for each type of sentence a minimum number of votes is needed to grant a parole. Any Board Member may, however, request that more than the minimum number of Members vote on a particular case. The Regional Board Members are the first ones to cast their votes at the hearing. If more than three votes are required, Board Members in Ottawa also review the case and vote in the light of information contained in the file. Applications from inmates in provincial institutions are reviewed in Ottawa, except in provinces that have their own parole boards.

A simple majority of the required votes is needed to authorize temporary absence or to grant day parole or full parole for all inmates except lifers or persons serving indeterminate sentences; in these cases, two-thirds of the votes are required to grant any type of release.

For more details, please consult the eligibility table on page 10.

SUPERVISION

When the Board has decided to grant parole, the inmate must sign a document which prescribes the conditions of his release. He may, in addition to the standard conditions, be given some specific conditions related to a particular behavioural pattern (for instance, not to frequent specified areas).

Inmates selected by the Board for release on parole and those released by law on mandatory supervision are both supervised by the National Parole Service or in some centres by private after-care organizations such as the John Howard Society and the Elizabeth Fry Society or the Allied Indian and Metis Society.

In general, the method and frequency of parole supervision are determined by the individual parole supervisor under guidelines laid down by the Board. The Board bears the ultimate responsibility for deciding whether a parole should be cancelled and the inmate returned to incarceration as a result of violations of parole or mandatory supervision conditions.

The standard conditions of release are:

—to remain, until the expiry of his sentence, under the authority of the designated representative of the National Parole Board;

—to proceed immediately and directly to the area designated in the instructions and, immediately upon arrival and at least once a month thereafter to report to the police nearest the place of residence or as instructed by the supervisor;

—to remain in a designated area and not to leave this area without obtaining permission beforehand from the representative of the Board;

—to endeavour to maintain steady employment and to report at once to the supervisor any change or termination of employment or change in any other circumstances such as accident or illness;

—to obtain approval from the representative of the Board before purchasing a motor vehicle, incurring debts by borrowing money or instalment buying, assuming additional responsibilities such as marriage, and owning or carrying firearms or other weapons;

—to communicate immediately with the representative of the Board if arrested or questioned by police regarding any offence;

—to obey the law and fulfill all legal and social responsibilities.

The conditions apply to all parolees, day parolees and inmates released on mandatory supervision and are designed to ensure, among other things, that careful thought is given to assuming additional responsibilities. Violation of any of these conditions or of any special condition may result in suspension and perhaps revocation of the release by the Board.

By imposing these conditions, the Board places certain restrictions on the freedom of the parolee or person under mandatory supervision. However, the change from the controlled environment of a prison to the relatively free one of the community is not always easy, and the conditions serve as a protection not only for society but also for the inmate himself. A parole supervisor is responsible for ensuring that the person he supervises abides by the conditions of the contract.

SUSPENSION AND REVOCATION

In general, a suspension occurs when a parole officer given authority by the Board decides it is necessary to suspend parole or mandatory supervision because of a violation of the release conditions or because he has reasonable grounds to believe that a continuation of the release will entail a risk to the public.

When his conditional release is suspended, the parolee or person on mandatory supervision is returned to custody and an investigation is commenced immediately. At any time during the next 14 days the suspension may be cancelled by the parole officer in authority if explanations by the inmate indicate that reasons for the suspension are not of continuing concern. However, if it is a serious case, it is referred to the Board which has the jurisdiction to cancel the suspension or revoke the release. Revocation is not ordered until the inmate has had a chance to make explanations to the Board. If the release is revoked, the person is sent back to incarceration.

Eligibility for consideration of future release depends on the nature of the revocation and the nature of the new offence and the length of the new term. Normally, when revocation is not accompanied by a new sentence, the next review date for full parole will be in six months to two years. After revocation, if the inmate is given a new sentence, the remaining portion of the first sentence and the new one are calculated together as one term.

RE-EXAMINATION OF DECISIONS

If the Board denies full parole to an inmate or revokes a day parole, full parole, or a release on mandatory supervision, it must give its reasons and the inmate may request a re-examination of that decision. Members who did not participate in the original decision will re-examine the case and may uphold, modify, or reverse that decision. Material not available at the time of the original decision may be considered.

PARDONS

As a general rule, anyone convicted of an offence by way of summary conviction (usually carrying a sentence of six months or less) may apply for a pardon two years after the sentence ends. Anyone convicted of an indictable offence — an offence of a more serious nature — may apply after five years. The Board has the responsibility, under the Criminal Records Act, for recommending whether a pardon should be granted by the Governor in Council.

A pardon indicates that, after a thorough investigation, the person is considered to be of good behaviour and that the conviction for the offence should no longer reflect adversely on his character. It also means that any disqualification that came about under any act of Parliament or related regulation as a result of the conviction, is removed. All records relating to the conviction which are in the possession of any federal agency are set apart and may not be revealed without approval of the Solicitor General.

If the pardon is subsequently revoked for bad behaviour, for another conviction, or for providing a false statement to obtain the pardon, the records may be placed back with the active files.

For anyone guilty of a summary offence and given a conditional discharge, the waiting period before a pardon can be granted is one year after the probation period ends. If the discharge is absolute, the waiting period is one year after the discharge is handed down. For someone found guilty of an indictable offence but given a conditional or absolute discharge, the waiting period is three years.

Because the Criminal Records Act is a federal statute, its provisions for setting records apart do not apply to provincial or municipal jurisdictions or to any business or industry, unless similar legislation is passed in the province where the conviction was made. Additionally, the pardon does not erase the fact that a conviction took place nor does it permit a person to declare that he does not have a criminal record.

IN SUMMARY

In making a decision to release an inmate on parole, Board Members must judge the readiness of the individual to begin re-integrating into the community and must also consider any risk to public safety. Since most prisoners eventually return to the community whether released by the Board or not, the challenge is to decide what is the most opportune time to release an inmate — that point in time when he has gained maximum benefit from incarceration and is most likely to complete parole successfully.

The Board believes that in the long run the public is better protected when the inmate undergoes a gradual release program and is supervised in the community, than when he is abruptly released at the expiry of his sentence.

March 1979